



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/441,592	11/17/1999	KEITH E. LEJEUNE	99-041	4572

7590 10/07/2002

HENRY E BARTONY JR  
LAW AND FINANCE BUILDING  
429 FOURTH AVENUE SUITE 1801  
PITTSBURGH, PA 15219

EXAMINER

NAFF, DAVID M

ART UNIT	PAPER NUMBER
----------	--------------

1651

DATE MAILED: 10/07/2002

12

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

09/44592 11/7/99 Lejeune

29-041

1/aff

1451

12

Below is a communication from the EXAMINER in charge of this application  
COMMISSIONER OF PATENTS AND TRADEMARKS

### ADVISORY ACTION

☐ THE PERIOD FOR RESPONSE:

- a) ☐ is extended to run \_\_\_\_\_ or continues to run \_\_\_\_\_ from the date of the final rejection
- b) ☒ expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

☐ Appellant's Brief is due in accordance with 37 CFR 1.192(a).

☒ Applicant's response to the final rejection, filed 9/23/02 has been considered with the following effect, but it is not deemed to place the application in condition for allowance:

1. ☐ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:
- a. ☐ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
  - b. ☐ They raise new issues that would require further consideration and/or search. (See Note).
  - c. ☐ They raise the issue of new matter. (See Note).
  - d. ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
  - e. ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. ☐ Newly proposed or amended claims \_\_\_\_\_ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.
3. ☒ Upon the filing of an appeal, the proposed amendment ☒ will be entered ☐ will not be entered and the status of the claims will be as follows:

Claims allowed: 3+4  
Claims objected to: 3+4 objected to as dependent on rejected claims.  
Claims rejected: 1+5-10

However;

☒ Applicant's response has overcome the following rejection(s): the rejection over Lejeune et al (3), (6) or (4).

4. ☒ The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection because see  
affidavit

5. ☐ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented.

☐ The proposed drawing correction ☐ has ☐ has not been approved by the examiner.  
☐ Other

DAVID M. NAFF  
PRIMARY EXAMINER  
ART UNIT 12651

ATTACHMENT TO FORM PTOL-303

The rejection under 35 U.S.C. 102(b) over Havens et al is maintained. Applicants recognize that Havens et al obtain a maximum of 5mg protein/g polymer which is 0.5 wt% of protein contained by the polymer. However, applicants urge that not all protein is enzyme, and that the concentration of enzyme contained by the polymer is much lower and enzyme loading is probably less than .01 wt%. However, Havens et al disclose partial purification of the enzyme using 20-40% ammonium sulfate (page 2256, left column, first full paragraph). Due to this purification with ammonium sulfate, it appears that Havens et al obtain an enzyme loading of greater than approximately 0.1 percent by weight. Of the 5 mg protein present, it appears that at least 1 mg would be enzyme due to the ammonium sulfate purification. It should be noted that the claims require greater than approximately 0.1% enzyme. The term "approximately" permits an amount of enzyme loading lower than 0.1%.

Claims 3 and 4 are free of the prior art, but are objected to as being dependent on a rejected claim. Should applicants put claims 3 and 4 in independent form and cancel the non-allowed claims, the non-elected claims 11-30 should also be canceled.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David M. Naff whose telephone number is (703) 308-0520. The examiner can normally be reached on Monday-Thursday and every other Friday from about 8:30 AM to about 6:00 PM.

Application Number: 09/441,592  
Art Unit: 1651

Page 3

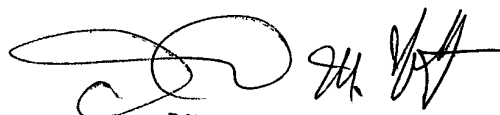
If attempts to reach the examiner by telephone are unsuccessful, a message can be left on voice mail.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Wityshyn, can be reached at telephone number  
5 (703) 308-4743.

The fax phone number is (703) 872-9306 before final rejection or (703) 872-9307 after final rejection.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist  
10 whose telephone number is (703) 308-0196.

15 DMN  
10/3/02

  
DAVID M. NAFF  
PRIMARY EXAMINER  
ART UNIT 1651